

## **SECTION I – INTRODUCTION**

### **Part 100 Background of the CTCAC Program**

In 1986, Congress enacted the Low-Income Housing Tax Credit Program (LIHTC). This program provides incentives for the investment of private equity capital in the development of affordable rental housing. The LIHTC reduces the federal tax liability of project owners in exchange for the acquisition, rehabilitation, or construction of affordable rental housing units that will remain income and rent restricted over a long period. The amount of tax credit allocated is based on the number of qualified low-income units that meet federal rent and income targeting requirements.

The LIHTC is authorized and governed by Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”). The California Tax Credit Allocation Committee (CTCAC) is the designated “housing credit agency” to allocate and administer tax credits for the entire state.

Each state develops a Qualified Allocation Plan (QAP), which establishes the guidelines and procedures for the acceptance, scoring, and competitive ranking of applications and for the administration of the LIHTC Program. The QAP and California’s Program Regulations are developed to be relevant to state housing needs and consistent with state housing priorities. For more information on the Qualified Allocation Plan and the Program Regulations, see Section III, #370 and #380.

### **Part 110 Contents and Summary**

Section 42(m)(1)(B)(iii) of the Code requires that each state’s Qualified Allocation Plan provide a procedure that the agency will follow in notifying the Internal Revenue Service (IRS) of any noncompliance with the provisions of Section 42 of which it becomes aware. This provision became effective on January 1, 1992.

Final regulations, developed by the IRS and published on September 2, 1992, outline minimum requirements for owner recordkeeping and reporting, for state credit agency monitoring and inspecting, and for reporting to the IRS instances of noncompliance.

California’s compliance monitoring plan follows the final regulations, as well as the recommendations of the National Council of State Housing Agencies (NCSHA), and is applicable to ALL owners of ALL buildings that have ever claimed the low-income housing tax credit since the inception of the program in 1987.

### **Part 120 Compliance Period**

Once allocated by the housing credit agency, low-income housing tax credits can be claimed annually over a ten (10) year period beginning either with the year the building is placed in service or the following year, depending on which option is selected by the owner. Projects must, however, remain in compliance for a minimum of fifteen (15) years, with some requirements extending for an additional three years. Additionally, owners who agreed in their applications to have longer compliance periods will be bound for the length of time specified.

Developments with allocations of 1990 credit and after will have entered into a restrictive covenant (Regulatory Agreement/Land Use Restrictive Agreement) with CTCAC at the time of

final allocation. These developments must comply with eligibility requirements for an additional 15 years beyond the initial 15-year compliance period (or a total of 30 years), except in certain circumstances.

This restrictive covenant binds the owner and any successors to maintain specified low-income occupancy during the Extended Use Period. The Extended Use Period may end on the event of foreclosure or if, during or after the 14<sup>th</sup> year of the tax credit period, the owner requests the credit agency to find a buyer willing to enter into a “qualified contract” to purchase the property and maintain its low-income use for the remainder of the Extended Use Period. A qualified contract is defined as a contract to buy the low-income portion of the building for an amount no less than the applicable fraction times the sum of outstanding debt plus adjusted investor equity, plus other capital contributions, minus cash distributions, (adjusted investor equity includes those capital contributions reflected in basis – that is, not including syndication expenses – plus a cost of living adjustment not to exceed 5% annually). If no qualified contract is presented within one year after the request is made, the property may be sold or converted to conventional housing, subject to a three-year period during which existing low-income tenants may not be evicted (except for Good Cause) and the rent restrictions must stay in place.

Many projects, particularly those allocated in 1990 and beyond, elected to extend the number of low-income use restriction years up to 55 years in order to receive additional points in the scoring process. Projects allocated in 1996 and beyond must extend the number of low-income use restriction years to 55 years in order to compete for an allocation. The option of requesting the credit agency to find a purchaser (outlined above) is not available to owners who agreed to longer compliance periods. For more information regarding the Extended Use Agreement, the Qualified Allocation Plan, and the Program Regulations, see Section III, #380.

## **Part 130 Regulations for Various Tax Credit Periods**

IRS regulations differ depending on when a project was allocated tax credit. In some cases, the change in regulations brought forth by a technical correction is minor; in others, it is substantial. Management must not only be aware of the differences in regulations but must also clearly understand which rule governs each particular building and/or project. Currently, there are four specific tax credit regulation periods as follows:

### **1. January 1, 1987 – December 31, 1989**

- For projects allocated credit during this period, rent is based on the number of people living in the unit, and was (is) subject to change as household composition changes. Owners of these projects, however, had a one-time opportunity to opt to change the methodology used by sending a letter to the Internal Revenue Service requesting the conversion. Verification of the option chosen must be provided to CTCAC upon request.

### **2. January 1, 1990 and beyond. *NOTE: This does not necessarily mean projects placed in service in 1990. It is the tax credit allocation year that is determinative.***

- Rent for all projects allocated after January 1, 1990 is based on the number of bedrooms in a particular unit.
- The compliance period is increased to 30 years.

**3. 1991 and January 1, 1992 – June 30, 1992**

- The Farmers Home Administration Overage Rule and an extension on initial compliance (not retroactive) were implemented.

**4. July 1, 1992 and August 10, 1993**

- Section 8 voucher rule (cannot refuse to lease to Section 8 tenants) – retroactive.
- Two student rule changes were implemented.
- 1987 – 1989 projects can convert rental rates from number of persons to number of bedrooms.